

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
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Marie-Laure DELACOUR et al.	)	Group Art Unit: 1611
	)	
Application No.: 10/614,016	)	Examiner: CHANNAVAJJALA, L. S.
	)	
Filing Date: July 8, 2003	)	
	)	
For: COSMETIC COMPOSITION HAVING	)	Confirmation No.: 9511
A PASTY TO PULVERULENT	)	
TEXTURE AND THE COSMETIC USE	)	
THEREOF	)	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**VIA EFS WEB**

Sir:

**DECLARATION UNDER 37 C.F.R. § 1.132**

I, Marie-Laure DELACOUR, declare and state that:

1. I am a French citizen, residing at Park Habio Akasaka Hikawacho #901,  
6-6-17 Akasaka, Minato-ku, 107-0052 TOKYO - JAPAN.
2. I have been awarded a degree in Engineering in Material Sciences from  
Polytech'Lille.
3. I have been employed by L'ORÉAL since 30th august 1999 and I am  
presently R&D Engineer in the Japanese R&D Make-up Department at L'ORÉAL.
4. Given my education and experience, particularly in the areas of  
Foundations consider myself able to provide the following testimony based on the  
experiments set forth below, which were conducted by me or under my supervision.

## **COMPARATIVE TESTS**

### **A. Compositions**

Four compositions were prepared as set forth in the table below. Compositions 1 and 4 are inventive compositions having A/B and C/B ratios in accordance with the present invention. Compositions 2 and 3 are comparative compositions not in accordance with the present invention. Composition 2 has A/B and C/B ratios falling outside of the scope of the present invention. Composition 3 has a C/B ratio falling within the scope of the present invention, and an A/B ratio falling outside the scope of the present invention. Percentages are expressed as percentage by weight.

	Composition 1 (inventive)	Composition 2 (comparative)	Composition 3 (comparative)	Composition 4 (inventive)
Binder <b>A</b> <sup>1</sup> (comprising 63% organopolysiloxane <b>C</b> )	60% (37.8% <b>C</b> )	35% (22.05% <b>C</b> )	45% (28% <b>C</b> )	53% (33.4% <b>C</b> )
Particulate Phase <b>B</b> <sup>2</sup>	40%	65%	55%	47%
A/B Ratio	1.5	0.54	0.81	1.13
C/B Ratio	0.945	0.34	0.5	0.71

<sup>1</sup> Binder A is the product BY-29119, sold by Dow-Corning Toray Silicone, which contains 63% by weight of active substance, *i.e.*, 63% hydrophilic organopolysiloxane power and 37% water.

<sup>2</sup> Particulate phase B comprises:

Titanium dioxide	16.85%
Yellow iron oxide	3.925%
Brown/yellow iron oxide	3.375%
Black iron oxide	0.85%
Nylon powder (Orgasol <sup>®</sup> from Atochem)	75%

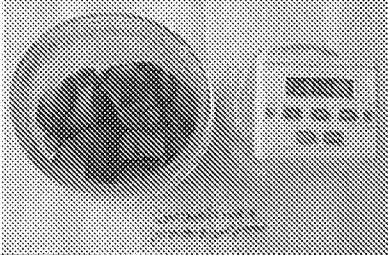


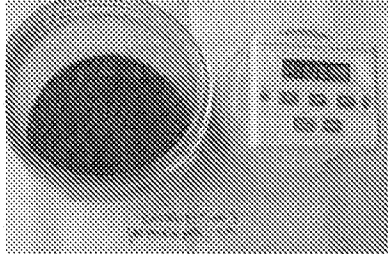
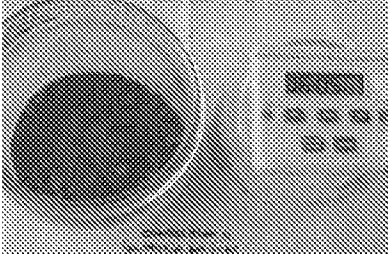
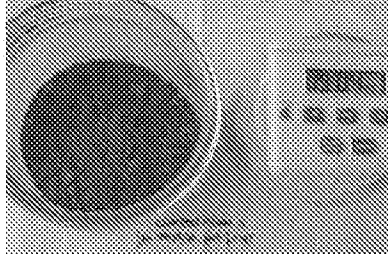
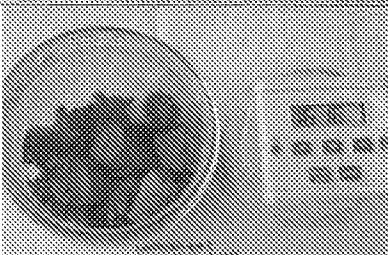
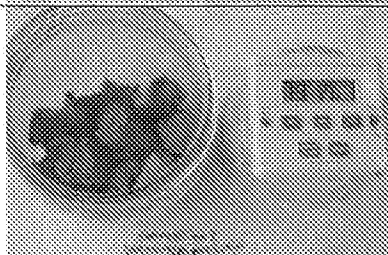
## **B. Procedure**

The compositions were prepared according to the following procedure for manufacture on a co-rotating twin-screw extruder, which is a cooker-extruder mixer "BC21" from the company CLEXTRAL:

- the components of particulate phase B were introduced in pulverulent form at the head of the extruder by a weight metering device,
- binder phase A was introduced as an aqueous suspension via a peristaltic pump into one of the barrels of the extruder,
- the mixture was blended in the cold state in the extruder, and
- the composition obtained at the outlet of the extruder was manually collected and placed in a dish.

## **C. Results**

The compositions obtained above were photographed after exiting the extruder and three hours later, as shown in the table below:

Composition	After exiting the extruder	After 3 hours
Composition 1 (inventive) <u>A/B Ratio</u> : 1.5 <u>C/B Ratio</u> : 0.945		
Composition 2 (comparative) <u>A/B Ratio</u> : 0.54 <u>C/B Ratio</u> : 0.34		
Composition 3 (comparative) <u>A/B Ratio</u> : 0.81 <u>C/B Ratio</u> : 0.5		
Composition 4 (inventive) <u>A/B Ratio</u> : 1.13 <u>C/B Ratio</u> : 0.71		

#### D. Analysis

As can be seen in the photographs above, Compositions 1 and 4, according to the present invention, exhibit a pulverulent-to-pasty texture and are sufficiently elastic and deformable such that their shape can be easily modified, for example, manually, without exudation. Moreover, Compositions 1 and 4 are sufficiently solid and cohesive such that they can retain the cylindrical shape obtained upon extrusion and can be left

in the cylindrical shape at ambient temperature and pressure without changing shape, for at least three hours.

In contrast, Compositions 2 and 3, which fall outside of the scope of the present invention, are fragile, crumbly powders, which are unable to maintain the cylindrical shape obtained upon extrusion for any length of time. Hence, Compositions 2 and 3 do not have a pulverulent-to-pasty texture and are not sufficiently elastic and deformable such that their shape can be easily modified.

As shown in the foregoing tests, compositions having a binder/particulate phase (A/B) ratio and an organopolysiloxane/particulate phase (C/B) ratio in accordance with the present invention exhibit improved texture, cohesion, and deformability, as compared to compositions with A/B and C/B ratios falling outside of the scope of the present invention.

6. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: December 5<sup>th</sup>, 2008

By:   
Marie-Laure DELACOUR